

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 01-455-A
)	
ZACARIAS MOUSSAOUI)	
a/k/a "Shaqil,")	
a/k/a "Abu Khalid)	
al Sahrawi,")	
)	
Defendant.)	

ORDER

The defendant, pro se, has filed a Motion to Appear in Front of the Grand Jury Convene [sic] on September 11 Attack (Docket # 249). Because the United States normally controls who testifies before the grand jury and does not object to the defendant appearing as a witness, this motion is deemed MOOT.

The defendant is advised to read carefully the Government's Response to Defendant's Motion to Testify in the Grand Jury (filed under seal). That response makes clear the security and other conditions which will apply to any appearance by the defendant before the grand jury. The defendant must expect that he will be required to answer questions and that any such answer or statement will be under the penalty of perjury and will be permanently recorded. As we have done on numerous occasions, we again caution the defendant that the United States may use against him any of his answers or statements. Moreover, without an order of immunity, anything Mr. Moussaoui says before the grand jury may expose him to prosecution for other criminal

activity. The defendant is advised that he has a right to qualified legal counsel to assist him with his grand jury appearance. Although that attorney may not be present in the grand jury room while Mr. Moussaoui testifies, his counsel may remain outside the grand jury room to be available if Mr. Moussaoui wishes to obtain legal advice. For this reason, it is hereby

ORDERED that should Mr. Moussaoui decide to appear before the grand jury, at least one of his standby counsel must be available outside the grand jury room to provide him with legal advice upon request.

The defendant has also filed a Motion to Appear in Front of Congress [sic] Hearing on FBI Knowledge and Responsibility on the Sept 11 Attack (Docket # 247) to which the United States does not believe a response is merited. It is not appropriate for this Court to consider defendant's motion because federal courts do not advise the United States Congress as to whom it should call as witnesses at hearings. For this reason, the motion is DENIED.

Again, we advise the defendant that if any congressional committee invites him to testify, anything he says may be used against him in this or any other criminal prosecution unless he is afforded immunity. He would, of course, have the right to legal counsel at such hearing. Therefore, it is hereby

ORDERED that should Mr. Moussaoui testify before any

congressional committee, at least one of his standby counsel must be present to provide him with legal advice upon request.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; standby defense counsel; the Court Security Officer; and the United States Marshal. The Clerk is also directed to forward a copy of this Order and the defendant's Motion to Appear in Front of Congress to Senator Bob Graham, Chair of the Senate Select Committee on Intelligence; Senator Richard Shelby, Vice Chair of the Senate Select Committee on Intelligence; Senator Patrick Leahy, Chair of the Senate Judiciary Committee; Senator Orrin Hatch, Ranking Republican Member of the Senate Judiciary Committee; Representative Porter Goss, Chair of the House Permanent Select Committee on Intelligence; and Representative Nancy Pelosi, Ranking Democrat on the House Permanent Select Committee on Intelligence.

Entered this 3rd day of July, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia